

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

RIK LINEBACK, Regional Director of the)	
Twenty-Fifth Region of the National Labor Relations)	
Board, for and on behalf of the NATIONAL LABOR)	
RELATIONS BOARD,)	
)	
Applicant,)	
)	
v.)	3:11-mc-12-RLY-WGH
)	
ALL STAR FIRE PROTECTION and)	
BILL SHEEHE,)	
)	
Respondents.)	

ORDER ASSESSING ATTORNEY'S FEES

This matter is before the Honorable William G. Hussmann, Jr., United States Magistrate Judge, on a Motion for Attorney Fees filed by Plaintiff on March 9, 2012. (See Docket No. 17). Also before the Magistrate Judge is a Response to the Magistrate Judge's Order on Telephonic Status Conference entered May 4, 2012 (Docket No. 20) seeking reimbursement for fees and costs. (See Docket No. 21). Pursuant to the Magistrate Judge's Order at Docket No. 20, Mr. Sheehe was to file any objection to the Motion for Attorney Fees on or before June 4, 2012. No such response has been filed.

The Magistrate Judge, being duly advised, now **GRANTS, in part,** and **DENIES, in part,** the motion, as follows:

In this case, the Director of the National Labor Relations Board (“the Board”) was required to initiate court proceedings to obtain compliance with an administrative subpoena. The case law cited, though not from the Seventh Circuit, does suggest that the Board is entitled to an award of costs and attorney’s fees. *See N.L.R.B. v. Cable Car Advertisers, Inc.*, 319 F.Supp.2d 991, 999-1001 (N.D. Cal. 2004).

The Board is requesting compensation at the rate of One Hundred Fifty Dollars (\$150.00) per hour for attorney time and Seventy-five Dollars (\$75.00) per hour for field examiner time. The Magistrate Judge believes these hourly rates are at or below the current market rate for the Indianapolis, Indiana market for litigation attorneys and professional staff, but they are sufficient to cover the Board’s personnel and overhead costs.

The Magistrate Judge has reviewed the attorney fee logs submitted and find that the time is appropriately spent for all of the entries, with the exception of two entries. They are:

- (a) 09/27/11, 636 mins. Traveling to file and personally serve enforcement documents by an attorney; and
- (b) 11/7/11, 330 mins. Traveling to personally serve November 7, 2011 letter by an attorney.

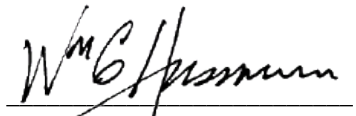
The Magistrate Judge believes that the filing of documents and personal service of certain documents can be accomplished through a field examiner and do not require the services of an attorney. The attorney, of course, is required to travel to attend court-scheduled hearings, and time spent in that regard is appropriate.

The entries of September 27 and November 7, 2011, would indicate that approximately 970 minutes were billed at the \$150 per hour attorney rate when the same tasks could have been accomplished at the \$75 per hour field examiner rate. The 970 minutes is 16.16 hours. Computing the 16.16 hours at the \$75 rate, instead of the \$150 rate, results in a reduction in the amount sought by One Thousand Two Hundred Twelve Dollars (\$1,212.00)

The fee and expense log is appropriate.

Therefore, the Magistrate Judge **ORDERS** All Star Fire Protection and Mr. Sheehe to pay the appropriate fees and costs in the amount of Five Thousand Three Hundred Eighty-Six Dollars and Twenty-eight Cents (\$5,386.28). This amount should be paid within thirty (30) days of the date of this Order.

SO ORDERED the 29th day of June, 2012.


William G. Hussmann, Jr.
United States Magistrate Judge
Southern District of Indiana

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